



PTO/SB/21 (02-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

| | | | |
|---|----------------------|------------------------|---------|
| TRANSMITTAL FORM (to be used for all correspondence after initial filing) | Application Number | 10/622,808 | |
| | Filing Date | July 17, 2003 | |
| | First Named Inventor | Alan E. Hayes | |
| | Art Unit | | |
| | Examiner Name | | |
| Total Number of Pages in This Submission | 6 | Attorney Docket Number | NPW 346 |

ENCLOSURES (Check all that apply)

| | | |
|--|--|---|
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below): *Response to Decision Refusing Petition Under 37 C.F.R. 1.47(a) *Supplemental Declaration of David J. Edlund |
| Remarks | | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | |
|-------------------------------|--|
| Firm or Individual name | David S. D'Ascenzo Kolisch Hartwell, P.C. |
| Signature | |
| Date | May 24, 2004 |

CERTIFICATE OF TRANSMISSION/MAILING

| | | | |
|---|--------------------|------|--------------|
| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. | | | |
| Typed or printed name | David S. D'Ascenzo | | |
| Signature | | Date | May 24, 2004 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IFW ZDAC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

May 24, 2004

In re Application of:
ALAN E. HAYES and JERRY A. YOUNG

Serial No. : 10/622,808
Filed : July 17, 2003
For : POSITIVE DISPLACEMENT LIQUID PUMP

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

RESPONSE TO DECISION REFUSING PETITION UNDER 37 C.F.R. 1.47(a)

IdaTech, LLC ("Assignee") hereby requests reconsideration of its petition for acceptance of the present application without the signature of inventor Jerry Young. Enclosed with this request is a Supplemental Declaration of David J. Edlund in support of the petition.

As an initial matter, Assignee's undersigned attorney thanks the Petitions Attorney for his time and comments in a telephone interview on April 30, 2004 in which the refusal was discussed. Assignee understands that additional information is requested regarding whether Assignee's Declarant had first-hand knowledge of whether the complete patent application, with drawings, was sent to Mr. Young and whether attempts had been made to find Mr. Young's present whereabouts or place of employment. In response, as discussed below and supported by the enclosed Supplemental Declaration, Assignee's Declarant confirms that he has first-hand knowledge that the complete patent application, including drawings, was sent to Mr. Young and the Assignee has made numerous attempts to locate Mr. Young.

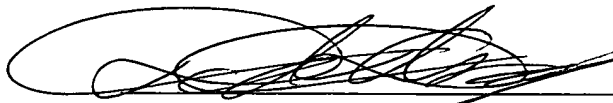
Regarding providing Mr. Young with a copy of the present application, with drawings, Mr. Edlund confirms that it was at his direction that a complete copy of the present application, with drawings and the required inventor's declaration, was sent to Mr. Young at his last known address. When no response was received from Mr. Young and the mailing was not returned to Assignee, a second letter was sent to Mr. Young via certified mail. This letter was returned as being undeliverable on account of Mr. Young no longer residing at that residence, as discussed in Assignee's original petition. Accordingly, it is Assignee's belief that the original letter, with the application and declaration, was received but Mr. Young refused to respond to the requests for review and signature, and that Mr. Young had moved before the second letter was received.

Regarding Assignee's attempts to locate Mr. Young's present whereabouts, Assignee's Declarant is not aware of Mr. Young's present whereabouts or place of employment. Assignee has searched for Mr. Young's present whereabouts or current place of employment, but without success. The prevalence of individuals in the U.S. with "Young" as a surname and Jerry or variants thereof as a given name renders on-line searching impractical given the hundreds, if not more, names meeting this criteria. However, Assignee has searched for forwarded addresses for Mr. Young. Assignee has also contacted, without success, various ones of Mr. Young's coworkers and friends to try to locate Mr. Young or learn of his current place of employment. Assignee has also contacted companies with which it believed Mr. Young may have sought employment. However, these inquiries also were not successful in ascertaining Mr. Young's whereabouts or place of employment.

In view of the above, Assignee requests reconsideration of the denial of its petition. Assignee submits that it has more than satisfied the requirements for a petition under 37 C.F.R. 1.47(a) and accordingly requests that its petition be granted so that prosecution of the present application can proceed. If the Petitions Attorney has any questions regarding this matter or requires any additional information, Assignee's attorney may be reached at the number listed below.

Respectfully submitted,

KOLISCH HARTWELL, P.C.

A handwritten signature in black ink, appearing to read 'David S. D'Ascenzo', is written over a horizontal line.

David S. D'Ascenzo
Of Attorneys for Assignee, IdaTech, LLC
Registration No. 39,952
PTO Customer No. 23581
Kolisch Hartwell, P.C.
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
ALAN E. HAYES and JERRY A. YOUNG

Serial No. : 10/622,808
Filed : July 17, 2003
For : POSITIVE DISPLACEMENT LIQUID PUMP

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

SUPPLEMENTAL DECLARATION OF DAVID J. EDLUND

I, David J. Edlund, of the city of Bend, Oregon, hereby declare:

1. I am making this declaration to supplement my original Declaration in connection with IdaTech's petition to proceed without the signature of one of the inventors for the above-identified patent application.

2. At my direction, a copy of the application, including drawings, and the required declaration, were sent to Mr. Young at his last known address. No response was received from Mr. Young. I then had a second letter sent to Mr. Young at this address. This second letter was sent via certified mail, return receipt requested. This second letter was returned to IdaTech as being undeliverable because Mr. Young no longer resides at the address. Copies of this second letter and the returned envelope were attached to my prior Declaration.

3. On information and belief, Mr. Young received and refused to sign the declaration accompanying the application, with this declaration and the application being received after

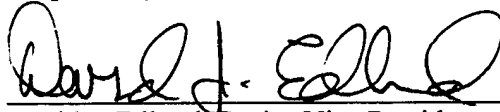
Mr. Young was no longer employed by IdaTech. On information and belief, Mr. Young had moved from his last known address when the second declaration was sent to this address.

4. Mr. Young's current whereabouts and current place of employment are not known to myself, and on information and belief, his whereabouts and/or current place of employment are not known to others at IdaTech. IdaTech has searched for Mr. Young's current whereabouts, but without success. The prevalence of individuals with Young as a surname and Jerry or variants thereof as a first name makes country-wide Internet searches impractical. However, IdaTech's searches included inquiring about Mr. Young's current whereabouts with his former co-workers and associates, none of whom were aware of his current whereabouts or place of employment. IdaTech has also inquired with companies in other states where IdaTech believed Mr. Young may now be employed, but those inquiries also were not successful in ascertaining Mr. Young's whereabouts or place of employment.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 17 May 2004

Respectfully submitted,



David J. Edlund, Senior Vice President and
Chief Technology Officer
IdaTech, LLC, assignee of U.S. Patent
Application Serial No. 10/622,808